

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 12256 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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- 1 Whether Reporters of Local Papers may be allowed
to see the judgment ?
- 2 To be referred to the Reporter or not ?
- 3 Whether their Lordships wish to see the fair copy
of the judgment ?
- 4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?
- 5 Whether it is to be circulated to the civil judge
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JAY SOMESHWAR (NIKOL) CO-OP.HSG.SOCI.LTD. - Petitioner
Versus
TORRENT POWER AEC LTD.. & 1 - Respondents

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Appearance :

MR MAYUR RAJGURU for Petitioner.
NOTICE NOT RECD BACK for Respondent : 1
MR RM CHHAYA for Respondent No. 2.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL
and
HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 24/07/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

Rule. Mr.R.M.Chhaya, learned counsel, waives

service of notice on behalf of the respondent No.2. The record shows that though the respondent No.1 is duly served with the notice for final disposal of the petition, the said respondent has not appeared through lawyer or through its constituted agent, nor filed affidavit-in-reply controverting the averments made in the petition.

2. By filing this petition under Article 226 of the Constitution, Mr.Ramnikbhai Keshavlal Patel, who is Chairman of Jay Someshwar (Nikol) Cooperative Housing Society Limited, Nikol, Ahmedabad, has prayed to issue a writ of mandamus or any other appropriate writ or order, directing the respondent No.1 i.e. Torrent Power AEC Ltd., to grant electric supply to the residential bungalows/twin tenements constructed by the petitioner.

3. The petitioner is Chairman of Jay Someshwar (Nikol) Cooperative Housing Society Ltd., which is registered under the provisions of the Gujarat

Cooperative Societies Act, 1961. The society had purchased Revenue Survey No.261/2 paiki Final Plot No.56 of T.P.Scheme No.1 (Nikol) by a Deed dated March 22, 2006, a copy of which is produced on running page 19 of the compilation . It may be mentioned that the original owners had applied for Commencement Letter(Rajachitthi) and the respondent No.2 i.e Ahmedabad Municipal Corporation had granted the same by two different orders dated August 5, 2005 and September 3, 2005. Pursuant to the development permissions granted by the Ahmedabad Municipal Corporation, the petitioner-society has constructed residential bungalows/twin tenements for its members. After construction of residential bungalows/twin tenements, it was the duty of the petitioner to apply for Building Use Permission and thereafter to apply for electricity connection. However, without obtaining Building Use Permission, the petitioner applied to the respondent No.1 to supply electricity connection to the residential bungalows/twin tenements

constructed by it. The request made by the petitioner for supply of electricity connection is turned down by the respondent No.1 on the ground that Building Use Permission is not obtained by the petitioner. By a communication, which is produced on running page-16 of the compilation, Mr.R.K.Vaghela (Executive) for General Manager (City Zone) has requested the petitioner to produce Building Use Permission or conditional order of the High Court to supply electricity to the residential bungalows/twin tenements constructed by the petitioner. Under the circumstances, the petitioner has filed the instant petition and claimed relief to which reference is made earlier.

4. The petition was placed for admission hearing before this Bench on June 28, 2006 and after hearing the learned counsel for the petitioner, notice for final disposal of the petition was issued making it returnable on July 20, 2006.

5. This Court has heard Mr. Mayur Rajguru, learned counsel for the petitioner as well as Mr. R. M. Chhaya, learned counsel for the respondent No. 2, and has also considered the documents forming part of the petition. As observed earlier, though the respondent No. 1 is duly served with notice for final disposal of the petition, the said respondent has not appeared through Lawyer or through its constituted agent, nor filed affidavit-in-reply controverting the averments made in the petition. Having regard to the facts of the case, this Court is of the opinion that interest of justice would be served if following directions are issued :-

(1) The petitioner will approach the Ahmedabad Municipal Corporation for obtaining Building Use Permission within thirty days from today with a proper application/form/format and by paying requisite fee, if any.

- (2) The Ahmedabad Municipal Corporation is directed to take decision on the application, which may be submitted by the petitioner, within four months from the date of receipt of the same.
- (3) The petitioner shall apply to the respondent No.1 i.e. Torrent Power AEC Limited, for providing electricity connection to residential bungalows/twin tenements constructed by it with a proper application/form/format and by paying charges within a week.
- (4) The respondent No.1 i.e. Torrent Power AEC Limited, is directed to provide electricity connection to residential bungalows/twin tenements constructed by the petitioner within one month on usual terms and conditions.
- (5) In case the Ahmedabad Municipal Corporation is not approached by the petitioner for obtaining Building Use Permission within the period stipulated in this order, the

Ahmedabad Municipal Corporation shall inform the Torrent Power AEC Limited to disconnect the electricity supply made available to residential bungalows/twin tenements constructed by the petitioner and in such an eventuality, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to the residential bungalows/twin tenements constructed by the petitioner within a period of fifteen days.

- (6) In case the Ahmedabad Municipal Corporation does not grant Building Use Permission, it will ask the Torrent Power AEC Limited to disconnect the electricity supply provided to residential bungalows/twin tenements constructed by the petitioner within a period of fifteen days and, thereupon, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to residential bungalows/twin tenements constructed by the petitioner.

- (7) The petitioner shall file an Undertaking

before the Torrent Power AEC Limited to the effect that in the event the Building Use Permission is not granted by the Ahmedabad Municipal Corporation, the petitioner will have no objection to disconnection of electricity supply provided to residential bungalows/twin tenements constructed by it. This Undertaking shall be filed along with the application/form/format meant for the purpose.

Rule is made absolute subject to above referred to directions. There shall be no order as to costs. Direct Service is permitted.

(J.M.Panchal, J.)

(Smt.Abhilasha Kumari, J.)

(patel)